

1 ANN MILLER RAVEL, County Counsel (S.B. #62139)  
 2 MARCY L. BERKMAN, Deputy County Counsel (S.B. #151915)  
 3 OFFICE OF THE COUNTY COUNSEL  
 4 70 West Hedding Street, East Wing, Ninth Floor  
 San Jose, California 95110-1770  
 Telephone: (408) 299-5900  
 Facsimile: (408) 292-7240

5 Attorneys for Defendants  
 6 JOHN G. VARTANIAN, III AND  
 MARY MURPHY

7  
 8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA

10  
 11 CLIFFORD M. GOVAERTS, ) USDC Case No. **C08 00125** **PVT**  
 12 Plaintiff, ) Superior Court Case No. 1-07-CV-095874  
 13 v. )  
 14 SANTA CLARA COUNTY )  
 15 DEPARTMENT OF CHILD SUPPORT )  
 16 SERVICES; MARY MURPHY, ATTY; )  
 17 JOHN G. VARTANIAN, III, COUNTY )  
 18 OF SANTA CLARA; MELODY )  
 GRANDELL; AND DOES 1-10. )  
 19 Defendants. )  
 20

21 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

22 PLEASE TAKE NOTICE that Defendants John Vartanian and Mary Murphy hereby  
 23 remove to this Court the state court action described below.<sup>1</sup>

24 1. On October 5, 2007, Plaintiff filed an action in the Superior Court for the State of  
 25 California in and for the County of Santa Clara entitled *Clifford M. Govaerts vs. Santa Clara*

26 <sup>1</sup> Defendant County of Santa Clara has not yet been served with this action, but will be  
 27 represented by the undersigned once service is effected. The Department of Child Support  
 28 Services is a County Department without the capacity to be sued and has been erroneously  
 named as a Defendant. Defendant Grandell is Plaintiff's ex-wife. The Superior Court docket  
 sheet for this matter does not reflect any appearance on her behalf and it is unknown whether  
 Plaintiff ever served her with a summons and complaint.

1       *County Dept of Child Support Services et al.* Case No. 1-07-CV-095874. Plaintiff did not serve  
 2 that original complaint. That complaint alleged common law state tort claims: intentional  
 3 infliction of emotional distress, negligent infliction of emotional distress, malicious prosecution,  
 4 and breach of fiduciary duty. That complaint was not served at that time upon defendants. True  
 5 and correct copies of that complaint and summons is attached hereto as Exhibit A.

6       2. On December 4, 2007, Plaintiff Govaerts filed a First Amended Complaint adding a  
 7 claim arising under federal law: 42 U.S.C. § 1983. A true and correct copy of that First  
 8 Amended Complaint is attached hereto as Exhibit B.

9       3. Plaintiff left a copy of the First Amended Complaint in the lobby of the County  
 10 department where Defendants Vartanian and Murphy work and made a request that they agree  
 11 to accept service by notice of acknowledgment and receipt.

12       4. On January 7, 2008, Deputy County Counsel Marcy L. Berkman executed a notice of  
 13 acknowledgment and receipt on behalf of Defendants Vartanian and Murphy. True and correct  
 14 copies of that notice is attached hereto as Exhibit C.

15       5. This action is a civil action of which this Court has original jurisdiction under 28  
 16 U.S.C. § 1331, and is one which may be removed to this Court by Defendants pursuant to the  
 17 provisions of 28 U.S.C. § 1441(b) in that it alleges a cause of action arising under 42 U.S.C.  
 18 section 1983 for violation of plaintiff's constitutional rights.

19       6. Plaintiff's claims arise from his allegations that Defendants efforts to enforce an  
 20 allegedly excessive amount of child support payments from Plaintiff Govaerts violated  
 21 Plaintiff's constitutional rights. Plaintiff filed the civil action which is hereby removed in the  
 22 Santa Clara County Superior Court. Accordingly, assignment is appropriate to the San Jose  
 23       ///

24       ///

25       ///

26       ///

27       ///

28       ///

1 Division of the United States District Court for the Northern District of California.

2 Dated: January 7, 2008

Respectfully submitted,

3 ANN MILLER RAVEL  
County Counsel

4 By:

5   
6 MARCY L. BERKMAN  
Deputy County Counsel

7 Attorneys for Defendants  
8 JOHN G. VARTANIAN, III AND  
9 MARY MURPHY

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108579.wpd

**SUMMONS**  
**(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:** County of Santa Clara Department  
**(AVISO AL DEMANDADO):**

Of Child Support Services, Mary Murphy,  
John G. Vartanian III, Santa Clara County,  
Melodee Grandell

**YOU ARE BEING SUED BY PLAINTIFF:**  
**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Clifford M. Govaerts

SUM-100

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**ENDORSED**

2001 OCT -5 P 3:59

RECEIVED  
CLERK OF COURT  
BE

A. Ilas

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

*Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.courtinfo.ca.gov/selfhelp/espanol](http://www.courtinfo.ca.gov/selfhelp/espanol)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.*

*Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol](http://www.courtinfo.ca.gov/selfhelp/espanol)) o poniéndose en contacto con la corte o el colegio de abogados locales.*

The name and address of the court is:  
(El nombre y dirección de la corte es)

Superior Court Of Santa Clara County  
191 N. First Street  
San Jose, CA 95113

CASE NUMBER:  
(Número de caso)

**107 CV 095874**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

OCT 05 2007 Clifford M. Govaerts, 408-253-1921

P.O Box 2294

Cupertino, CA 95015

Clerk, by \_\_\_\_\_  
(Secretario)

A. Ilas

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)

**NOTICE TO THE PERSON SERVED:** You are served

1.  as an individual defendant.
2.  as the person sued under the fictitious name of (specify):

3.  on behalf of (specify):

under:  CCP 416.10 (corporation)

CCP 416.20 (defunct corporation)

CCP 416.40 (association or partnership)

other (specify):

CCP 416.60 (minor)

CCP 416.70 (conservatee)

CCP 416.90 (authorized person)

4.  by personal delivery on (date):

**EXHIBIT A**

CLIFFORD M. GOVAERTS, SBN 073624  
P.O. BOX 2294  
CUPERTINO, CA 95015  
TELEPHONE: (408) 253-1921  
FAX: (408) 877-1649  
Pro per

ENDORSED

2001 OCT -5 P 3:59

RECEIVED  
CLERK'S OFFICE, SUPERIOR COURT OF  
CALIFORNIA, COUNTY OF SANTA CLARA  
A. Ilas

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

CLIFFORD M. GOVAERTS ) No. 107CV095874  
Plaintiff )  
vs. ) COMPLAINT FOR MONEY DAMAGES  
Santa Clara County Department of ) Personal Injury and Fiduciary Breach  
Child Support Services; ) (Damages exceed \$25,000)  
Mary Murphy, Atty; )  
John G. Vartanian, III, )  
County of Santa Clara; )  
Melody Grandell; and )  
Does 1-10 )

First Cause of action- Negligent Infliction of Emotional Distress:

Plaintiff alleges:

1. Defendant Santa Clara County Department of Child Support Services is, and at all times mentioned herein was, a public entity, duly organized and existing under the laws of the State of California.

2. At all times mentioned herein, defendants Mary Murphy, Atty and John G. Vartanian, III are employees of defendant Santa Clara County Department of Child Support Services and in doing the acts hereinafter described, acted within the course and scope of his or her employment. It is believed and therefore alledged that Defendant John G. Vartanian, III is the supervisor of Defendant Mary Murphy, Atty .

3. Defendant Melody Grandell is Plaintiff's former spouse and a resident of Santa Clara County, the County where the underlying Child Support Order and Action in this matter arose.

1  
2       4. Defendant County of Santa Clara is, and at all times mentioned herein was, a  
3 county duly organized and existing under the laws of the State of California and is  
4 responsible for the management and supervision of some or all of the other public entities  
5 or public employees whose acts are hereinafter described.

6       5. Plaintiff is ignorant of the true names and capacities of defendants sued herein  
7 as DOES 1- 10, inclusive, and therefore sues these defendants by such fictitious names.  
8 Plaintiff will amend this complaint to allege their true names and capacities when  
9 ascertained. Plaintiff is informed and believes and thereon alleges that each of these  
10 fictitiously named defendants is negligently responsible in some manner for the  
11 occurrences herein alleged, and that plaintiff's injuries as herein alleged were proximately  
12 caused by that negligence.

13       6. At all times herein mentioned, defendants DOES 1-10 , inclusive, were the  
14 agents, servants, and employees of their codefendants, and in doing the things hereinafter  
15 alleged were acting in the scope of their authority as such agents, servants, and  
16 employees, and with the permission and consent of their codefendants.

17       7. Defendant Mary Murphy, in connection with an ongoing child support  
18 modification conflict between plaintiff and Defendant Melody Grandell, on or about  
19 June 2006, informed the court that Plaintiff owed \$42,000, principal and interest, in back  
20 child support, in clear violation of her duties as a member of the California State bar,  
21 Rule of Professional Conduct 5-200 (A) and (B) to present matters truthfully and not to  
22 mislead the judicial officer. Ms. Murphy knew or should have known that Plaintiff's  
23 obligation was a small portion of that amount as she had been advised by Defendant  
24 Grandell that the amount of child support actually due was less than \$3,000.

25       8. Defendant Mary Murphy new or should have known that Plaintiff, as a result of  
26 a bitter divorce and the recent loss of his job was suffering from an emotional disability  
27 and was collecting California SSI.

28       9. As a result of her ethical duty, and the commitment of her employer,  
29 Defendant Santa Clara County Department of Child Support Services's expressed mission  
statement to promote the well-being of families with accurate and timely service, as

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1  
2 stated in such defendant's marketing materials attached as Exhibit A, Mary Murphy owed  
3 a duty of care to plaintiff which she breached by her failure to determine the exact  
4 amount of child support due

5 10. As the proximate result of the acts alleged above, plaintiff suffered  
6 humiliation, mental anguish, and emotional and physical distress, and has  
7 been injured in mind due to the harassing letters from Defendant Department of Child  
8 Support Services which included threats of arrest, attachment, garnishment of tax refunds  
9 (which did occur) and that threat to Plaintiff's professional license, all of which caused  
10 severe emotional breakdown of Plaintiff and hospitalization, all to Plaintiff's damage.

11 11. As a further proximate result of the acts alleged above, plaintiff was required  
12 to and did employ physicians to examine, treat, and care for plaintiff, and incurred  
13 additional medical expenses for hospital bills and other incidental medical expenses.  
14 Plaintiff is informed and believes and thereon alleges that plaintiff will incur some  
15 additional medical expenses, the exact amount of which is unknown.

16 12. By reason of the acts alleged above, plaintiff was prevented from continuing  
17 his job search and is reaching the end of his COBRA health insurance coverage.  
18 Plaintiff is informed and believes and thereon alleges, that plaintiff was thereby sustain  
19 further damages.

20 13. The acts of defendant Mary Murphy and the failure of all other defendants  
21 other than Melody Grandell to supervise Ms. Murphy justify the awarding of damages to  
22 Plaintiff.

23 14. Defendant's actions in misleading the Court as to the amount of Child support  
24 due were not part of an action instigated or prosecuted by her as the matter was already  
25 pending. Mary Murphy was, in fact, a mere witness for the Defendant Department of  
26 Child Support and as such does not enjoy the normal prosecutorial immunity and as the  
27 function her position was to protect children, such immunity is not available as a result of  
her deceit under Government Code § 820.21

28 14. Plaintiff was required to comply with the claims statute and has complied.  
Plaintiff's claim was denied by Defendant County of Santa Clara on April 4, 2007;

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3 WHEREFORE, plaintiff prays judgment as follows:  
4  
5 1. For general damages according to proof;  
6  
7 2. For medical and related expenses according to proof.  
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9 3. For lost earnings, past and future, according to proof;]  
10  
11 4. For costs of suit herein incurred; and  
12  
13 5. For such other and further relief as the court may deem proper.  
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**Second Cause of action- Intentional Infliction of Emotional Distress:**

Plaintiff alleges:

1. Plaintiff repeats allegations 1-4 from his First Cause.  
2. Plaintiff is ignorant of the true names and capacities of defendants sued herein as DOES 1- 10, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes and thereon alleges that each of these fictitiously named defendants except for Defendant Melody Grandell are responsible in some manner for the occurrences herein alleged, either as a result of their failure to supervise, or for some other reason, and that plaintiff's injuries as herein alleged were proximately caused by that act or omission.

3. At all times herein mentioned, defendants DOES 1-10, inclusive, were the agents, servants, and employees of their codefendants, and in doing the things hereinafter alleged were acting in the scope of their authority as such agents, servants, and employees, and with the permission and consent of their codefendants.

4. Defendant Mary Murphy, in connection with the above-described child support modification conflict, with full known of the inaccuracy of the information, informed the court that Plaintiff owed \$42,000, principal and interest, in back child support, in clear violation of her duties as a lawyer and arising out of her relationship to

1  
2 Plaintiff. Ms. Murphy knew that Plaintiff's obligation was a small portion of that amount  
3 as she had been advised by Defendant Grandell that the amount of child support actually  
4 due was less than \$3,000 and acted with reckless abandon and/or willfulness.

5 5. Defendant Mary Murphy new or should have know that Plaintiff, as a result of  
6 a bitter divorce and the recent loss of his job was suffering from an emotional disability  
7 and was collecting California SSI.

8 6. Defendant Murphy's wilfull misconduct was wanton, malicious, and  
9 oppressive, and justify the awarding of exemplary and punitive damages.

10 7. As the proximate result of the acts alleged above, plaintiff suffered humiliation,  
11 mental anguish, and emotional and physical distress, and has been injured in mind due to  
12 the harassing letters from Defendant Department of Child Support Services which  
13 included threats of arrest, attachment, garnishment of tax refunds (which did occur) and  
14 that threat to Plaintiff's professional license, all of which caused severe emotional  
15 breakdown of Plaintiff and hospitalization, all to Plaintiff's damage.

16 8. As a further proximate result of the acts alleged above, plaintiff has incurred  
17 the other special damages set forth above.

18 9. By reason of the acts alleged above, plaintiff was prevented from continuing  
19 his job search and is reaching the end of his COBRA health insurance coverage.  
20 Plaintiff is informed and believes and thereon alleges, that plaintiff was thereby sustain  
21 further damages.

22 10. The acts of defendant Mary Murphy and the failure of all other defendants  
23 other than Melody Grandell to supervise Ms. Murphy justify the awarding of exemplary  
24 and punitive damages to Plaintiff.

25 11. Plaintiff repeats allegations relative to the claims and immunity argument  
26 above.

27 WHEREFORE, plaintiff prays judgment as follows:

28 1. For general damages according to proof;  
2. For medical and related expenses according to proof.

1  
2 3. For lost earnings, past and future, according to proof;  
3  
4 4. Exemplary and punitive damages  
5  
5 5. For costs of suit herein incurred; and  
6  
6 6. For such other and further relief as the court may deem proper.

7 **Third Cause of action- Malicious Prosecution:**

8 Plaintiff alleges:

9 1. Plaintiff repeats allegations 1-6 from his Second cause of action.  
10 2. Despite the claim that Plaintiff owed \$42,000 in back child support,  
11 but only after the suffers of Plaintiff, Defendant Department of Child Support Services  
12 ultimately concluded that no back child support existed. See Defendant Department of  
13 Child Support Services letter of February 12, 2007. attached as Exhibit B. In response  
14 thereto Plaintiff supplemented his claim pending against the County by his letter of  
15 February 20, 2007, informing the county of his elevated damages and new causes of  
16 action, as shown in Exhibit C attached hereto.

17 3. Defendants acted without any basis in fact in claiming any amount over \$3,000  
18 was due and in their vicious actions to recover such amounts. Defendant Murphy did not  
19 honestly, reasonably, and in good faith believe Plaintiff to be guilty of the financial  
20 neglect of his daughter. She had no justification in participating in such wrong doing.

21 4 Plaintiff is informed and believes and therefore alleges that Defendant Melody  
22 Grandell wrongfully participated in such conduct. Melody Grandell had no justification  
23 in participating in such wrong doing as she knew there was no such deficiency

24 5. Defendants Murphy and Grandell, And unknown Does acted maliciously in  
25 pursuing Plaintiff for amounts knowingly not due and did so out of an improper motive  
26 or purpose, prejudice, or a desire to annoy and wrong Plaintiff to pay an amount of  
\$3,000, which due to his limited income, was ultimately determined not due.

27 6. As a proximate result of the wrongdoings initiated by Defendant, Plaintiff has  
28 been damaged.

1  
2       7. Such misstated claim for back Child Support and harassment to collect such  
3 debt were acts by said Defendants which were willful, wanton, malicious and oppressive  
4 in that it was, it is believed, in the case of Defendant Mary Murphy, and a policy or  
5 customer of Defendant Department of Child Support Services that all dads are deadbeats  
6 and none are truly disabled.. This gender bias, it is believed, and the ill will of Melody  
7 Grandell, it is believed and therefore alleged, was motivated by hatred of or ill will  
8 toward Plaintiff. These acts, and the frail condition of Plaintiff when they occurred,  
9 therefore justify the awarding of punitive damages.

10       7. Plaintiff repeats allegations relative to the claims and immunity argument  
11 above.

12       WHEREFORE, plaintiff prays judgment against defendants, and each of them, as  
13 follows:

14       1. For general damages according to proof.  
15       2. For punitive damages as permitted by law  
16       3. For costs of suit herein incurred.  
17       4. For such other and further relief as the court may deem proper.

18       **Fourth Cause of action- Breach of Fiduciary Duty of Attorney due Plaintiff:**

19       (As Against Defendants Murphy and  
Plaintiff alleges:

20       1. Plaintiff repeats allegations 1-5 from his Second Cause.  
21  
22       2. Plaintiff is ignorant of the true names and capacities of defendants sued herein  
as DOES 1- 10, inclusive, and therefore sues these defendants by such fictitious names.  
23 Plaintiff will amend this complaint to allege their true names and capacities when  
24 ascertained. Plaintiff is informed and believes and thereon alleges that each of these  
25 fictitiously named defendants except for Defendant Melody Grandell are responsible in  
26 some manner for the occurrences herein alleged, either as a result of their failure to  
27 supervise, or for some other reason, and that plaintiff's injuries as herein alleged were  
28 proximately caused by that act or omission.

3. At all times herein mentioned, defendants DOES 1-10 , inclusive, were the  
 4. agents, servants, and employees of their codefendants, and in doing the things hereinafter  
 5. alleged were acting in the scope of their authority as such agents, servants, and  
 employees, and with the permission and consent of their codefendants.

6. For such other and further relief as the court may deem proper.

7. As a result of Defendant's role and position, a balancing of (1) her intended harm to  
 8. Plaintiff with her knowledge of his emotional condition and health, (2) the degree of  
 9. certainty that being unemployed and told he owed more he knew he didn't, after being  
 10. through the "normal traumas" of family breakdowns, such intended harm was likely (3)  
 11. the clear violation of rules of professional responsibility, (4) the severity of the harm  
 12. caused, and (5) the policy of this state and the Count to prevent harm under these  
 13. situations, case law creates a fiduciary duty between lawyer and third party. See U  
14. Biakanja, 49 Cal. 2d. 647, and Adelman v. Associated Internat. Ins. Co., 90 Cal App 4<sup>th</sup>  
 352, at 361.

15. 5. Said defendants breached such duty by their wrongful allegations regarding  
 16. back child support

17. 6. As a result of such breach, defendants gained a collection advantage against  
 18. Plaintiff, requiring Plaintiff to hire his own counsel and incur legal expenses exceeding  
 19. \$3,000, much to Plaintiff's damage.

20. 7... Defendant Murphy's willful misconduct was wanton, malicious, and  
 21. oppressive, and justify the awarding of exemplary and punitive damages..

22. 8.. As the proximate result of the acts alleged above, plaintiff suffered  
 23. humiliation, mental anguish, and emotional and physical distress, and has  
 24. been injured in mind due to the harassing letters from Defendant Department of Child  
 25. Support Services which included threats of arrest, attachment, garnishment of tax refunds  
 26. (which did occur) and that threat to Plaintiff's professional license, all of which caused  
 27. severe emotional breakdown of Plaintiff and hospitalization, all to Plaintiff's damage.

28. 9.. As a further proximate result of the acts alleged above, plaintiff has incurred  
 the other special damages, including legal and medical fees set forth above.

1  
2 10. By reason of the acts alleged above, plaintiff was prevented from continuing  
3 his job search and is reaching the end of his COBRA health insurance coverage.  
4 Plaintiff is informed and believes and thereon alleges, that plaintiff was thereby sustain  
5 further damages.

6 10. The acts of defendant Mary Murphy and the failure of all other defendants  
7 other than Melody Grandell to supervise Ms. Murphy justify the awarding of exemplary  
8 and punitive damages to Plaintiff.

9 11. Plaintiff repeats allegations relative to the claims and immunity argument  
10 above.

11 12. Plaintiff repeats allegations relative to the claims and immunity argument  
12 above.

13 WHEREFORE, plaintiff prays judgment as follows:

14 1. For general damages according to proof;  
15 2. For medical and related expenses according to proof.  
16 3. For lost earnings, past and future, according to proof;  
17 4. Exemplary and punitive damages  
18 5. For costs of suit herein incurred; and  
19 6. For such other and further relief as the court may deem proper.

20 Dated: 10/5/07

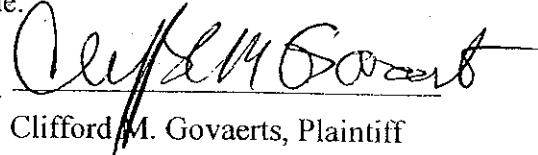


21 Clifford M. Govaerts, Plaintiff

22 VERIFICATION

23 I, Clifford M. Govaerts, am the plaintiff in this action. I have read the  
24 foregoing complaint and know the contents thereof. The same is true of my own  
25 knowledge, except as to those matters which are therein stated on information and belief,  
26 and, as to those matters, I believe it to be true.

27 Dated: 10/5/07



28 Clifford M. Govaerts, Plaintiff

9

SHORT TITLE:	PLD-PI-001(6)	
<i>GRANDELL v. SANTA CLARA COUNTY DEPT CHILD SUPPORT</i>	CASE NUMBER:	

### Exemplary Damages Attachment

Page 11ATTACHMENT TO  Complaint  Cross - ComplaintEX-1. As additional damages against defendant (name): *John G Vartanian III*

Plaintiff alleges defendant was guilty of

malice  
 fraud  
 oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

Defendant Mary Murphy, in connection a child support modification conflict, with full known of the inaccuracy of the information, informed the court that Plaintiff owed \$42,000, principal and interest, in back child support, in clear violation of her duties as a lawyer and arising out of her relationship to Plaintiff. Ms. Murphy knew that Plaintiff's obligation was a small portion of that amount as she had been advised by Defendant Grandell that the amount of child support actually due was less than \$3,000 and acted with reckless abandon and/or willfulness.

Defendant Mary Murphy new or should have known that Plaintiff, as a result of a bitter divorce and the recent loss of his job was suffering from an emotional disability and was collecting California SSI. Defendant Murphy's wilful misconduct was wanton, malicious, and oppressive, and justify the awarding of exemplary and punitive damages.

As the proximate result of the acts alleged above, plaintiff suffered humiliation, mental anguish, and emotional and physical distress, and has been injured in mind due to the harassing letters from Defendant Department of Child Support Services which included threats of arrest, attachment, garnishment of tax refunds (which did occur) and that threat to Plaintiff's professional license, all of which caused severe emotional breakdown of Plaintiff and hospitalization, all to Plaintiff's damage.

EX-3. The amount of exemplary damages sought is

a.  not shown, pursuant to Code of Civil Procedure section 425.10.  
 b.  \$

PLD-PI-001(6)

SHORT TITLE:	COURTCLERK v. SAN JUAN COUNTY DEPT CHILD SUPPORT	CASE NUMBER:
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**Exemplary Damages Attachment**Page 10ATTACHMENT TO  Complaint  Cross - ComplaintEX-1. As additional damages against defendant (name): *Mary Murphy*

Plaintiff alleges defendant was guilty of

malice  
 fraud  
 oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

Defendant Mary Murphy, in connection a child support modification conflict, with full known of the inaccuracy of the information, informed the court that Plaintiff owed \$42,000, principal and interest, in back child support, in clear violation of her duties as a lawyer and arising out of her relationship to Plaintiff. Ms. Murphy knew that Plaintiff's obligation was a small portion of that amount as she had been advised by Defendant Grandell that the amount of child support actually due was less than \$3,000 and acted with reckless abandon and/or willfulness.

Defendant Mary Murphy new or should have known that Plaintiff, as a result of a bitter divorce and the recent loss of his job was suffering from an emotional disability and was collecting California SSI. Defendant Murphy's willful misconduct was wanton, malicious, and oppressive, and justify the awarding of exemplary and punitive damages.

As the proximate result of the acts alleged above, plaintiff suffered humiliation, mental anguish, and emotional and physical distress, and has been injured in mind due to the harassing letters from Defendant Department of Child Support Services which included threats of arrest, attachment, garnishment of tax refunds (which did occur) and that threat to Plaintiff's professional license, all of which caused severe emotional breakdown of Plaintiff and hospitalization, all to Plaintiff's damage.

EX-3. The amount of exemplary damages sought is

a.  not shown, pursuant to Code of Civil Procedure section 425.10.  
 b.  \$

PLD-PI-001(6)

SHORT TITLE:	CASE NUMBER:
<i>Govaerts v. SANTA CLARA COUNTY DEPT OF CHILD SUPPORT</i>	

**Exemplary Damages Attachment**Page 12ATTACHMENT TO  Complaint  Cross - Complaint

EX-1. As additional damages against defendant (name): *Santa Clara County Department  
of Child Support Service*

Plaintiff alleges defendant was guilty of

malice  
 fraud  
 oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

Defendant Mary Murphy, in connection a child support modification conflict, with full known of the inaccuracy of the information, informed the court that Plaintiff owed \$42,000, principal and interest, in back child support, in clear violation of her duties as a lawyer and arising out of her relationship to Plaintiff. Ms. Murphy knew that Plaintiff's obligation was a small portion of that amount as she had been advised by Defendant Grandell that the amount of child support actually due was less than \$3,000 and acted with reckless abandon and/or willfulness.

Defendant Mary Murphy new or should have known that Plaintiff, as a result of a bitter divorce and the recent loss of his job was suffering from an emotional disability and was collecting California SSI. Defendant Murphy's wilfull misconduct was wanton, malicious, and oppressive, and justify the awarding of exemplary and punitive damages.

As the proximate result of the acts alleged above, plaintiff suffered humiliation, mental anguish, and emotional and physical distress, and has been injured in mind due to the harassing letters from Defendant Department of Child Support Services which included threats of arrest, attachment, garnishment of tax refunds (which did occur) and that threat to Plaintiff's professional license, all of which caused severe emotional breakdown of Plaintiff and hospitalization, all to Plaintiff's damage.

EX-3. The amount of exemplary damages sought is

a.  not shown, pursuant to Code of Civil Procedure section 425.10.  
 b.  \$

1  
2 PROOF OF SERVICE  
3

4 Declaration under Code of Civil Procedure § 1094.5  
5

6 I, \_\_\_\_\_, a resident of Santa Clara County, whose business address is  
7

8 This \_\_\_\_\_, 2007  
9

10 Served the following items:  
11

12 Complaint re Personal Injury, Clifford M. Govaerts vs Santa Clara County Department of  
13 Child Support Services, Summons and Statement of Damages;  
14

15 On the following interested parties:  
16

17 Santa Clara County Department  
18 of Child Support Services  
19 2851 Junction Ave.  
20 San Jose, CA 95134-1910

Mary Murphy  
Santa Clara County Department  
of Child Support Services  
2851 Junction Ave.  
San Jose, CA 95134-1910

John G. Vartanian III  
Santa Clara County Department  
of Child Support Services  
2851 Junction Ave.  
San Jose, CA 95134-1910

Melody Grandell  
10338 Scenic Blvd  
Cupertino, CA 95014

Santa Clara County Board Of Supervisors  
70 W. Hedding Road, East Wing  
10<sup>th</sup> Floor  
San Jose, CA 95110

23 By hand delivery or other Personal service  
24

25 I declare under penalty of perjury under the laws of the State of California that the above is true  
26 and correct.  
27

28 Dated: \_\_\_\_\_



Department of Child Support Services • • • • •

## **Mission of the Department of Child Support Services**

The mission of the Department of Child Support Services is to promote the well-being of children and the self-sufficiency of families by delivering effective child support services to help meet the financial, medical, and emotional needs of children.

## **Values of the Department of Child Support Services**

The Department of Child Support Services:

- Is dedicated to providing a child support program that puts the security of children above all else, based on the belief that parental responsibility includes financial, medical, and emotional support
- Takes pride in treating everyone served with kindness and compassion
- Treats customers equally and impartially, recognizing their differences with respect and understanding
- Responds to customers with accurate and timely services
- Works collaboratively with customers, other governmental agencies, and partners in an environment of trust and open communication to provide the best possible child support services

**Call toll free 1-866-249-0773 to find your county  
Department of Child Support Services office or  
visit our website at <http://www.childsup.ca.gov>**



## County of Santa Clara

### Department of Child Support Services

2685 Junction Avenue  
San Jose, California 95134  
(408) 503-5200 FAX 503-5252



---

Ralph Miller, Director

February 12, 2007

Clifford Govaerts  
P.O. Box 2294  
Cupertino, California 95015

Re: In re the Marriage of Govaerts  
FSB: 0205857

Dear Mr. Govaerts:

It is my understanding from your attorney that the Department of Child Support Services is permitted to deal with you directly until you inform us that you want us to deal with your attorney.

This letter is in response to your correspondence in which you believe you have over paid child support. I agreed you have over paid the child support that has accrued from June 1, 2006 through January 1, 2007. In May/June of last year, Ms. Grandell asserted that there were child and spousal support arrears estimated in the amount of \$6,894 owed prior to June 1, 2006. (These figures were listed in a Responsive Declaration I filed with the court in June of 2006. A copy was served on your attorney.)

On July 20, 2006, Melody Grandell, your attorney, Tracy Duell-Casez and I were present in Department 94 for a settlement conference. The issues before the court were modification of child and spousal support and determination of arrears. Your attorney was not able to reach you. By stipulation Ms. Grandell, Ms. Duell-Casez and I agreed to take the motion off calendar without prejudice. Any party could ask that the matter be restored.

I just spoke with Ms. Grandell. She has decided not to pursue the prior arrearages at this time. She is aware that this will result in an overpayment of support and you will not need to pay support until the overpayment is cured.

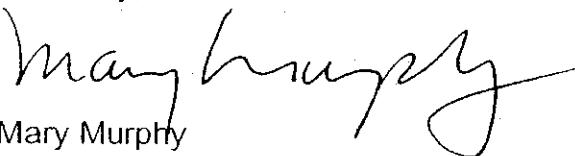
Attached is a Schedule of Payments which shows that you have over paid child support by \$2,062.93 through January, 2007. This means you would not owe support for February, March, and April. For May, you would only need to pay \$161.07. (4 months x \$566 = \$2,224 less \$2,062.93 = \$161.07).

*Exhibit B-1*

Clifford Govarets  
February 12, 2007  
Page 2

I have already asked the Child Support Officer assigned to your case to adjust your accounts. If you disagree or have questions regarding the above, you can contact me at (408) 503-5502 or fax correspondence to (408) 503-5657.

Sincerely,



Mary Murphy  
Department of Child Support Services

cc: Melody Grandell  
Tracy Duell-Cazes

B-2

## Schedule of Payments

February 12, 2007

FSB 0205857 Govaerts Never Arrears

Page: 1

Simple Interest starting at: 10%

Payments are being applied: first to debt incurred during the current month, then to interest, then to principal.

Prepared using software licensed to Santa Clara County Family Support

Date	Amount due or payment received	Interest rate from this date forward	Interest earned since prior transaction	Total accrued interest	Portion of payment applied to interest	Transaction's effect (+ or -) upon principal balance	Principal balance
Jun 01, 2006	566.00	Amt Due	0	10	.00	.00	566.00
Jun 01, 2006	-1,134.00	Amt Due	0	10	.00	.00	-1,134.00
Jul 01, 2006	566.00	Amt Due	30	10	.00	.00	566.00
Jul 01, 2006	-294.00	Payment	0	10	.00	.00	-294.00
Aug 01, 2006	566.00	Amt Due	31	10	.00	.00	566.00
Aug 01, 2006	-101.53	Payment	0	10	.00	.00	-101.53
Sep 01, 2006	566.00	Amt Due	31	10	1.43	1.43	566.00
Oct 01, 2006	566.00	Amt Due	30	10	6.04	7.47	566.00
Oct 01, 2006	-1,721.00	Payment	0	10	.00	7.47	-1,713.53
Nov 01, 2006	566.00	Amt Due	31	10	.00	.00	566.00
Nov 01, 2006	-2,769.07	Payment	0	10	.00	.00	-2,769.07
Dec 01, 2006	566.00	Amt Due	30	10	.00	.00	566.00
Dec 01, 2006	-572.40	Payment	0	10	.00	.00	-572.40
Jan 01, 2007	566.00	Amt Due	31	10	.00	.00	566.00
Jan 01, 2007	-6.40	Amt Due	0	10	.00	.00	-6.40
Feb 01, 2007	.00		31	10	.00	.00	.00
Total of Payments:			6,598.40				
Total Interest Earned:			7.47		Principal Balance:		
Amount Applied to Interest:			7.47		-2,062.93		
Amount Applied to Principal:			6,590.93		Unpaid Accrued Interest:		
					.00		
					Total Amount Due:		
					= -2,062.93		

B-3



Clifford M. Govaerts  
21795 Olive Ave  
Cupertino, CA 95014  
408-253-1921  
February 20, 2007

Via Registered Mail-Return receipt requested

Santa Clara County  
Department of Child Support Services  
2851 Junction Ave  
San Jose, CA 95134-1910

Attention: Mary Murphy

Case # 1: 0205857 Govaerts id# 730161-Complaint re calculation of  
accrued support due

Dear Ms. Murphy,

Thank you for your recent, candid letter. I take some comfort in knowing that Melody was not the source of the erroneous bills in your monthly case activity statements. I have attached those statements for April 2006, June 2006 and August 2006, showing arrearage for \$43,667.50, \$45,137, and \$46,755 respectively. Why would you send out these bills knowing that they were erroneous?

In addition, you must have known that even though Melody was seeking \$6,894 in back support, with my pending motion to modify support, which would be given retroactive effect, and my nominal amount of income, it was unlikely that she would collect any portion of the \$6,894.

Clearly the purpose of your bills was to extort and inflict economic and emotional pressure on me. Your statements state the many penalties for nonpayment, e.g. attachment of accounts, including IRA's, blemishes on my credit report, garnishment of wages and tax refunds (and mine was taken) and one year in jail and \$1,000 fines.

Your misuse of power in this matter is unethical, actionable and potentially criminal. If this was not merely a frolic of your own but the policy of your department, it may be time to blow the whistle. In any event, out of professional courtesy, I recommend that you obtain independent legal counsel.

Whatever you may have filed with the court in July of 2006 is fairly irrelevant. I notice your attached August bill was unadjusted. But as you know, the damage was already done before July 2006, with my hospitalization in June 2006. That personal injury, the injury to my children, particularly my son, and the impact this has had on my job search

Exhibit C  
C-1

and future cannot be compensated for, although I will now seek significant amounts in damages for your outrageous and malicious misconduct.

My COBRA coverage ran out January 1, 2007. If I am unable to secure employment and group benefits by March 1, 2007, it is my understanding that because of pre-existing condition limitations in most if not all plans, and for various, personal reasons, I will be uninsurable for the rest of my career. How will I obtain coverage for my minor child? Wasn't she to be the beneficiary of your efforts? How is destroying her father by your wrongdoings a benefit to her?

I will be amending my claims with your office and the Board of supervisors in light of your recent admission. Regarding the former, it has been over 30 days without a response, and if the case must now be moved to the ALJ, assuming I have exhausted my administrative rights, please move it up.

In any event, I strongly request that all matters related to the above-captioned case be removed from your desk and reassigned to someone else.

One last thought, as my ongoing job search is so critical a focus, I would hope the County would agree in writing to a 90 day or longer tolling of all applicable statutes of limitations applicable to my claims. I would further request that all matters surrounding my medical history be kept confidential by all those involved. As a quid pro quo, I will be quite circumspect in sharing the facts of your actions with others.

Best wishes in what may be difficult times,

  
Clifford Govaerts

Cc:Board of supervisors; Gage et al

1  
 2 CLIFFORD M. GOVAERTS, SBN 073624  
 3 P.O. BOX 2294  
 4 CUPERTINO, CA 95015  
 5 TELEPHONE: (408) 253-1921  
 6 FAX: (408) 877-1649  
 7 Pro per

8 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA**

9 CLIFFORD M. GOVAERTS ) No. 107 CV 095874  
 10 Plaintiff ) FIRST AMENDED  
 11 DAMAGES ) COMPLAINT FOR MONEY  
 12 vs. )  
 13 ) Personal Injury and Fiduciary Breach  
 14 ) Civil Rights Violation Under 42  
 15 ) U.S.C.A. § 1983  
 16 ) (Damages exceed \$25,000)  
 17 )  
 18 )  
 19 )  
 20 )  
 21 )  
 22 )  
 23 )  
 24 )  
 25 )  
 26 )  
 27 )  
 28 )

19 **PRELIMINARY STATEMENT**

20 This case surrounding the efforts of Defendant, the Santa Clara County  
 21 Department of Child Support Services, and the wrongful acts of its Attorney,  
 22 Defendant Mary Murphy, to collect a minimal amount of Child Support allegedly  
 23 due, by an unlawful and untruthful overstatement of such underpayment by a factor of  
 24 20, and win-at-all-costs collection efforts in an attempt, through financial,  
 25 emotional, and mental abuse to coerce Plaintiff to pay such inflated amount.

26 **FIRST CAUSE OF ACTION- NEGLIGENT INFILCTION OF EMOTIONAL  
 27 DISTRESS:**

28 Plaintiff alleges:

1  
 2 Govaerts v. Santa Clara County et al  
 3 First Amended COMPLAINT FOR MONEY DAMAGES

**EXHIBIT B**

1

2       1. Defendant Santa Clara County Department of Child Support Services is,  
 3       and at all times mentioned herein was, a public entity, duly organized and existing  
 4       under the laws of the State of California.

5       2. At all times mentioned herein, defendants Mary Murphy, Atty and John G.  
 6       Vartanian, III are employees of defendant Santa Clara County Department of Child  
 7       Support Services and in doing the acts hereinafter described, acted, except as herein  
 8       noted, within the course and scope of his or her employment. It is believed and  
 9       therefore alleged that Defendant John G. Vartanian, III is the supervisor of Defendant  
 10      Mary Murphy, Atty .

11       3. Defendant Melody Grandell is Plaintiff's former spouse and a resident of  
 12      Santa Clara County, the County where the underlying Child Support Order and  
 13      Action in this matter arose.

14       4. Defendant County of Santa Clara is, and at all times mentioned herein was,  
 15      a county duly organized and existing under the laws of the State of California and is  
 16      responsible for the management and supervision of some or all of the other public  
 17      entities or public employees whose acts are hereinafter described.

18       5. Plaintiff is ignorant of the true names and capacities of defendants sued  
 19      herein as DOES 1- 10, inclusive, and therefore sues these defendants by such  
 20      fictitious names. Plaintiff will amend this complaint to allege their true names and  
 21      capacities when ascertained. Plaintiff is informed and believes and thereon alleges  
 22      that each of these fictitiously named defendants is negligently responsible in some  
 23      manner for the occurrences herein alleged, and that plaintiff's injuries as herein  
 24      alleged were proximately caused by that negligence.

25       6. At all times herein mentioned, defendants DOES 1-10 , inclusive, were  
 26      the agents, servants, and employees of their codefendants, and in doing the things  
 27      hereinafter alleged were acting in the scope of their authority as such agents, servants,  
 28      and employees, and with the permission and consent of their codefendants.

29       7. Defendant Mary Murphy, in connection with an ongoing child support  
 30      modification conflict between plaintiff and Defendant Melody Grandell, on or about

1  
2 June 2006, informed the court that Plaintiff owed \$42,000, principal and interest, in  
3 back child support, in clear violation of her duties as a member of the California State  
4 bar, Rule of Professional Conduct 5-200 (A) and (B) to present matters truthfully and  
5 not to mislead the judicial officer. This duty of truthfulness is a mandatory duty  
6 codified by California Business and Professions Code § 6068. Ms. Murphy knew or  
7 should have known that Plaintiff's obligation was not \$42,000 but a much smaller  
8 amount as she had been advised by Defendant Grandell that the amount of child  
9 support actually due was less than \$3,000.

10 8. Defendant Mary Murphy knew or should have known, that Plaintiff, as a  
11 result of a bitter divorce and the recent loss of his job, was suffering from an  
12 emotional disability and was collecting California SSI.

13 9. As a result of her ethical duty, and the commitment to the public of her  
14 employer, Defendant Santa Clara County Department of Child Support Services,  
15 whose expressed mission statement to promote the well-being of families with  
16 accurate and timely service, as stated in such defendant's marketing materials attached  
17 as Exhibit A, Mary Murphy owed a duty of care to plaintiff which she breached by  
18 her failure to determine the exact amount, or at least a reasonable estimate thereof, of  
19 the child support due, and not to pursue Plaintiff for an unlawful amount.

20 10. As the proximate result of the acts alleged above, plaintiff suffered  
21 humiliation, mental anguish, and emotional and physical distress, and has  
22 been injured in mind due to the harassing letters from Defendant Department of Child  
23 Support Services which included threats of arrest, attachment, garnishment of tax  
24 refunds (which did occur) and that threat to Plaintiff's professional license, all of  
25 which caused severe emotional breakdown of Plaintiff and hospitalization, all to  
Plaintiff's damage.

26 11. As a further proximate result of the acts alleged above, plaintiff was  
27 required to and did employ physicians to examine, treat, and care for plaintiff, and  
28 incurred additional medical expenses for hospital bills and other incidental medical

1

2 expenses. Plaintiff is informed and believes and thereon alleges that plaintiff will  
3 incur some additional medical expenses, the exact amount of which is unknown.

4

5 12. By reason of the acts alleged above, plaintiff was prevented from  
6 continuing his job search and is reaching the end of his COBRA health insurance  
7 coverage. Plaintiff is informed and believes and thereon alleges, that plaintiff will  
thereby sustain further damages.

8

9 13. The acts of defendant Mary Murphy and the failure of all other defendants  
10 other than Melody Grandell to supervise Ms. Murphy justify the awarding of  
damages to Plaintiff.

11

12 14. Defendant's act in misleading the Court as to the amount of Child support  
13 due was itself unlawful, outside her duties as an employee of the Department, and not  
14 part of an action instigated or prosecuted by her as the matter was already pending.  
15 Mary Murphy was ,in fact, a mere witness for the Defendant Department of Child  
16 Support in this matter, and, as such, does not enjoy the normal prosecutorial  
17 immunity and, as the function her position was to protect children, under Government  
18 Code § 820.21, such immunity is not available as a result of her deceit. Justice  
19 demands that the state policy in favor of immunity must give way to the states interest  
20 in protecting the integrity of the justice system from the unlawful acts of officers of  
the Court. This is especially true in light of the mandatory and statutory duty of a  
21 lawyer to be truthful in all matters.

22

23 15. Plaintiff was required to comply with the claims statute and has complied.  
24 Plaintiff's claim was denied by Defendant County of Santa Clara on April 4, 2007;

25

26 WHEREFORE, plaintiff prays judgment as follows:

27

- 28 1. For general damages according to proof;
- 29 2. For medical and related expenses according to proof.
- 30 3. For lost earnings, past and future, according to proof;]
- 31 4. For costs of suit herein incurred; and

1  
2 5. For such other and further relief as the court may deem proper.

3 **SECOND CAUSE OF ACTION- INTENTIONAL INFILCTION OF**  
4 **EMOTIONAL DISTRESS:**

5 Plaintiff alleges:

6 1. Plaintiff repeats allegations 1-4 and 15 from his First Cause.  
7  
8 2. Plaintiff is ignorant of the true names and capacities of defendants sued  
9 herein as DOES 1- 10, inclusive, and therefore sues these defendants by such  
10 fictitious names. Plaintiff will amend this complaint to allege their true names and  
11 capacities when ascertained. Plaintiff is informed and believes and thereon alleges  
12 that each of these fictitiously named defendants except for Defendant Melody  
13 Grandell are responsible in some manner for the occurrences herein alleged, either as  
14 a result of their failure to supervise, or for some other reason, and that plaintiff's  
injuries as herein alleged were proximately caused by that act or omission.

15 3. At all times herein mentioned, defendants DOES 1-10, inclusive, were the  
16 agents, servants, and employees of their codefendants, and in doing the things  
17 hereinafter alleged were acting in the scope of their authority as such agents, servants,  
18 and employees, and with the permission and consent of their codefendants.

19 4. Defendant Mary Murphy, in connection with the above-described child  
20 support modification conflict, with full known of the inaccuracy of the information,  
21 informed the court and/or Defendants Vartanian , Department and Does, that Plaintiff  
22 owed \$42,000, principal and interest, in back child support, in clear violation of her  
23 duties as a lawyer and arising out of her relationship to Plaintiff. Ms. Murphy knew  
24 that Plaintiff's obligation was a much smaller amount as she had been advised by  
25 Defendant Grandell that the amount of child support actually due was less than  
26 \$3,000. Nevertheless, Ms. Murphy thereby acted with reckless abandon, willfulness  
and malice in pursuing Plaintiff for \$42,000.

27 5. Defendant Mary Murphy knew or should have known that Plaintiff, as a  
28 result of a bitter divorce and the recent loss of his job, was suffering from an  
emotional disability and was collecting California SSI.

1  
2       6. Defendant Murphy's willful misconduct was wanton, malicious, and  
3 oppressive, and justifies the awarding of exemplary and punitive damages.

4       7. As the proximate result of the acts alleged above, plaintiff suffered  
5 humiliation, mental anguish, and emotional and physical distress, and has been  
6 injured in mind due to the harassing letters from Defendant Department of Child  
7 Support Services which included threats of arrest, attachment, garnishment of tax  
8 refunds (which did occur) and that threat to Plaintiff's professional license, all of  
9 which caused severe emotional breakdown of Plaintiff and hospitalization, all to  
10 Plaintiff's damage.

11       8. As a further proximate result of the acts alleged above, plaintiff has  
12 incurred the other special damages set forth above.

13       9. By reason of the acts alleged above, plaintiff was prevented from  
14 continuing his job search and is reaching the end of his COBRA health insurance  
15 coverage. Plaintiff is informed and believes and thereon alleges, that plaintiff was  
16 thereby sustain further damages.

17       10. The acts of defendant Mary Murphy and the failure of all other defendants  
18 other than Melody Grandell to supervise Ms. Murphy justify the awarding of  
19 exemplary and punitive damages to Plaintiff.

20       11. Plaintiff repeats allegation 14 in his First Cause of Action relative to the  
21 claims and immunity argument above.

22 WHEREFORE, plaintiff prays judgment as follows:

23 1. For general damages according to proof;  
24 2. For medical and related expenses according to proof.  
25 3. For lost earnings, past and future, according to proof;  
26 4. Exemplary and punitive damages  
27 5. For costs of suit herein incurred; and  
28 6. For such other and further relief as the court may deem proper.

1  
2 **THIRD CAUSE OF ACTION- MALICIOUS PROSECUTION:**

3 Plaintiff alleges:

4       1. Plaintiff repeats allegations 1-6 from his Second cause of action.  
5       2. Despite the claim that Plaintiff owed \$42,000 in back child  
6 support, but only after the suffering of Plaintiff, Defendant Department of Child  
7 Support Services ultimately concluded that no back child support existed. See  
8 Defendant Department of Child Support Services letter of February 12, 2007.  
9 attached as Exhibit 2. In response thereto Plaintiff supplemented his claim pending  
10 against the County by his letter of February 20, 2007, informing the county of his  
11 elevated damages and new causes of action, as shown in Exhibit 3, attached hereto.

12       3. Defendants acted without any basis in fact in claiming any amount over  
13 \$3,000 was due and in their vicious actions to recover such amounts. Defendant  
14 Murphy did not honestly, reasonably, and in good faith belief Plaintiff to be guilty of  
15 the financial neglect of his daughter. She had no justification in participating in such  
16 wrong doing.

17       4 Plaintiff is informed and believes and therefore alleges that Defendant  
18 Melody Grandell wrongfully participated in such conduct. Melody Grandell had no  
19 justification in participating in such wrong doing as she knew there was no such  
20 deficiency

21       5. Defendants Murphy and Grandell, and unknown Does, acted maliciously in  
22 pursuing Plaintiff for amounts knowingly not due and did so out of an improper  
23 motive or purpose, prejudice, or a desire to annoy and wrong Plaintiff to pay an  
24 amount of \$3,000, which due to his limited income, was ultimately determined not  
25 due.

26       6. As a proximate result of the wrongdoings initiated by Defendants, Plaintiff  
27 has been damaged.

28       7. Such misstated claim for back Child Support and harassment to collect such  
debt were acts by said Defendants which were willful, wanton, malicious and

1  
 2 oppressive in that it was, it is believed, in the case of Defendant Mary Murphy, and  
 3 Department, that a policy or custom of Defendant Department of Child Support  
 4 Services exists that all dads are presumed to be "deadbeats", and none are truly  
 5 disabled or otherwise justified in nonpayment, and that "win at all cost" attitude be  
 6 pursued for amounts in excess of amounts reasonably due. This gender bias, it is  
 7 believed, and the ill will of Melody Grandell, it is believed and therefore alleged, was  
 8 motivated by hatred of or ill will toward Plaintiff. These acts, and the frail condition  
 9 of Plaintiff when they occurred, therefore justify the awarding of punitive damages.

10 7. Plaintiff repeats allegation 14 in his First Cause of Action relative to the  
 11 claims and immunity argument above.

12 WHEREFORE, plaintiff prays judgment against defendants, and each of them, as  
 13 follows:

14 1. For general damages according to proof.  
 15 2. For exemplary and punitive damages as permitted by law  
 16 3. For costs of suit herein incurred.  
 17 4. For such other and further relief as the court may deem proper.

18 **FOURTH CAUSE OF ACTION- BREACH OF FIDUCIARY DUTY OF  
 19 ATTORNEY DUE PLAINTIFF:**

20 **(As Against Defendants Murphy, Vartanian, Department, County and Does 1-10).**

22 Plaintiff alleges:

23 1. Plaintiff repeats allegations 1-5 from his Second Cause.  
 24  
 25 2. Plaintiff is ignorant of the true names and capacities of defendants sued  
 26 herein as DOES 1- 10, inclusive, and therefore sues these defendants by such  
 27 fictitious names. Plaintiff will amend this complaint to allege their true names and  
 28 capacities when ascertained. Plaintiff is informed and believes and thereon alleges  
 that each of these fictitiously named defendants except for Defendant Melody  
 Grandell are responsible in some manner for the occurrences herein alleged, either as

1

2 a result of their failure to supervise, or for some other reason, and that plaintiff's  
 3 injuries as herein alleged were proximately caused by that act or omission.

4 3. At all times herein mentioned, defendants DOES 1-10 , inclusive, were  
 5 the agents, servants, and employees of their codefendants, and in doing the things  
 6 hereinafter alleged were acting in the scope of their authority as such agents, servants,  
 7 and employees, and with the permission and consent of their codefendants.

8 4. For such other and further relief as the court may deem proper.

9 As a result of Defendant's role and position, a balancing of (1) her intended harm to  
 10 Plaintiff with her knowledge of his emotional condition and health, (2) the degree of  
 11 certainty that being unemployed and told he owed more he knew he didn't, after being  
 12 through the "normal traumas" of family breakdowns, such intended harm was likely  
 13 (3) the clear violation of rules of professional responsibility, (4) the severity of the  
 14 harm caused, and (5) the policy of this state and the Court to prevent harm under  
 15 these situations, case law creates a fiduciary duty between lawyer and third party.  
 16 See U Biakanja, 49 Cal. 2d. 647, and Adelman v. Associated Internat. Ins. Co., 90  
 17 Cal App 4<sup>th</sup> 352, at 361.

18 5. Said defendants breached such duty by their wrongful allegations regarding  
 19 back child support

20 6. As a result of such breach, defendants gained a collection advantage against  
 21 Plaintiff, requiring Plaintiff to hire his own counsel and incur legal expenses  
 22 exceeding \$3,000, much to Plaintiff's damage.

23 7. Defendant Murphy's willful misconduct was wanton, malicious, and  
 24 oppressive, and justify the awarding of exemplary and punitive damages.

25 8. As the proximate result of the acts alleged above, Plaintiff suffered  
 26 humiliation, mental anguish, and emotional and physical distress, and has been  
 27 injured in mind due to the harassing letters from Defendant Department of Child  
 28 Support Services which included threats of arrest, attachment, garnishment of tax  
 refunds (which did occur) and that threat to Plaintiff's professional license, all of

1  
2 which caused severe emotional breakdown of Plaintiff and hospitalization, all to  
3 Plaintiff's damage.

4 9. As a further proximate result of the acts alleged above, Plaintiff has  
5 incurred the other special damages, including legal and medical fees set forth above.

6 10. By reason of the acts alleged above, Plaintiff was prevented from  
7 continuing his job search and is reaching the end of his COBRA health insurance  
8 coverage. Plaintiff is informed and believes and thereon alleges, that plaintiff will  
9 thereby sustain further damages.

10 11. The acts of defendant Mary Murphy and the failure of all other  
11 defendants other than Melody Grandell to supervise Ms. Murphy justify the awarding  
12 of exemplary and punitive damages to Plaintiff.

13 12. Plaintiff repeats allegation 14 in his First Cause of Action relative to the  
14 claims and immunity argument above.

15 WHEREFORE, Plaintiff prays judgment as follows:

16 1. For general damages according to proof;  
17 2. For medical and related expenses according to proof.  
18 3. For lost earnings, past and future, according to proof;  
19 4. Exemplary and punitive damages  
20 5. For costs of suit herein incurred; and  
21 6. For such other and further relief as the court may deem proper.

22 **CAUSE OF ACTION: CIVIL RIGHTS VIOLATION UNDER 42 U.S.C.A. §  
1983**

23 1. Defendants, through pursuing Plaintiff for child support in amounts they  
24 knew to be excessive, unlawfully intruded into family relationship matters between  
25 Plaintiff and his minor child, who had been thrown, actively and perpetually, into  
26 Plaintiff's marital dissolution. There exists a special community of thoughts,  
27 experiences and beliefs between a father and daughter, and for a daughter to  
28 wrongfully believe that her father is seriously behind on support obligations, as a  
result of Defendants' wrongful actions, puts in jeopardy such constitutionally  
protected relationship.

1  
2. Defendants had no justification in their wrongful and outrageous conduct  
3 and in fact, had assumed a duty to protect the family relationship by their very  
4 existence and operations. It shocks the conscious that they would engage in such  
5 conduct when the research concludes that the rate of suicide among men going  
6 through a breakup of marriage is three times the rate of married men. How do the  
7 death of a father, and the resulting termination of support, benefit the child?

8 3. Defendants, with the intent to cause Plaintiff harm, pursued Plaintiff for a  
9 fabricated amount of child support, recklessly, maliciously, and without regard to his  
10 civil rights.

11 4. Plaintiff brings this action under 42 U.S.C.A. § 1983 and various state tort  
12 claims, seeking compensatory and punitive damages, and injunctive relief to prevent  
13 future unlawful civil rights violations by Defendants.

14 5. This civil rights claim is brought to ensure that the constitutional freedom  
15 for wrongful governmental intrusion into family matters does not become  
16 meaningless.

17 6. State courts have jurisdiction over matters arising under § 1983.

18 7. The events giving rise to these claims arose in Santa Clara County.

19 8. Plaintiff's child support obligation relates to his minor daughter Melissa,  
20 age 14 at the time of the wrongful conduct of Defendants.

21 9. Defendant Melody Grandell shared many of the details of the parties'  
22 dissolution with said minor child who did in fact confront her father with respect to  
23 the alleged delinquent support.

24 10. Plaintiff is ignorant of the true names and capacities of defendants sued  
25 herein as DOES 1- 10, inclusive, and therefore sues these defendants by such  
26 fictitious names. Plaintiff will amend this complaint to allege their true names and  
27 capacities when ascertained. Plaintiff is informed and believes and thereon alleges  
28 that each of these fictitiously named defendants except for Defendant Melody  
Grandell are responsible in some manner for the occurrences herein alleged, either as

1  
2 a result of their failure to supervise, or for some other reason, and that plaintiff's  
3 injuries as herein alleged were proximately caused by that act or omission.

4 11. At all times herein mentioned, defendants DOES 1-10, inclusive, were the  
5 agents, servants, and employees of their codefendants, and in doing the things  
6 hereinafter alleged were acting in the scope of their authority as such agents, servants,  
7 and employees, and with the permission and consent of their codefendants.

8 **As To Defendant Murphy:**

9 12. Plaintiff repeats allegations 1-4 and 14 from his First Cause.

10 13. At all times relevant, Defendant Murphy, in her unlawful overstatement  
11 of Plaintiff's support obligation, and in her vicious and ceaseless pursuit of such  
12 amounts, was acting, it is argued in the alternative, within the scope and authority  
13 granted under state law, under a course of action and behavior rising to a level of a  
14 policy, custom and systemic condoned practice, which deprived Plaintiff of rights,  
15 privileges, and immunities secured by the United States Constitution and by federal  
16 statute in violation of 42 U.S.C.A. § 1983.

17 14. Defendant Murphy's conduct was reckless, callously indifferent, and  
18 willful to the level of being wanton, malicious, and oppressive, and justifies the  
19 awarding of exemplary and punitive damages.

20 15. As a direct and proximate result of such acts, indifference, custom and  
21 policy established by Defendant Department, Plaintiff has suffered and will continue  
22 to suffer shame, despair, depression, mental pain, anguish and economic losses, all to  
23 Plaintiff's damage in an amount to be proven at trial. In addition irreparable harm has  
24 been done to his relationship with his daughter, greatly elevating such mental and  
25 emotional damages.

26 **As To Defendants Vartanian, Santa Clara County Department Of Child Support  
And Santa Clara County**

27 16. Plaintiff repeats allegations 1-14 from this Cause against Defendant  
Murphy.

28 17. Defendants Vartanian, and the Santa Clara County Department Of Child  
Support Services, it is alleged and believed, knew of and ratified the above-described

1  
2 actions of Defendant Murphy, were instrumental in setting, and acted in concert in  
3 setting, acting under color of state law, the policy and custom the lead to the  
4 overstatement of Plaintiff's support obligation and the wrongful pursuit of such  
5 amounts against him in violation of his Civil Rights.

6 18. Out of deliberate indifference and/or unofficial custom and policy,  
7 including a "win at all costs" policy, Defendants Vartanian, the Santa Clara County  
8 Department Of Child Support Services, and the County of Santa Clara, failed to  
9 adequately train and supervise Defendant Murphy and Does 1-10 as to the laws  
10 relating to the civil rights of members of the community involved in child support  
11 matters, the proper means to be followed by lawyers and other officials in assisting  
12 families in meeting the needs of their children, and the emotional considerations  
13 which, in good conscience, should require a sensitivity to the situation greater than  
14 that exhibited by Ms. Murphy.

15 19. As a result, Plaintiff was subject to the wrongful conduct herein alleged  
16 which deprived Plaintiff of rights, privileges, and immunities secured by the United  
17 States Constitution and by federal statute in violation of 42 U.S.C.A. § 1983.

18 20. Defendants Vartanian, the Santa Clara County Department Of Child  
19 Support Services, and the County of Santa Clara, should have supervised, known,  
20 trained and instructed Ms. Murphy, and their other employees, agents, and/or  
21 representatives to be aware that federal and state laws require that proper means be  
22 followed in assisting families in meeting the support needs of their children, and that  
23 emotional considerations, in good conscience, should require that in performing their  
24 official duties, a sensitivity to protecting the family relationship present.

25 21. As a direct and proximate result of said acts, indifference, custom, and  
26 policy established by Defendants Vartanian, the Santa Clara County Department Of  
27 Child Support Services, and the County of Santa Clara, Plaintiff has suffered and will  
28 continue to suffer shame, despair, depression, mental pain, anguish and economic  
losses, all to Plaintiff's damage in an amount to be proven at trial. In addition  
irreparable harm has been done to his relationship with his daughter, greatly elevating  
such mental and emotional damages.

1  
2 **As To Defendants The Santa Clara County Department Of Child Support, And**  
3 **The County Of Santa Clara**

4 22. In addition to the above grounds for liability, Defendants the Santa Clara  
5 County Department Of Child Support Services and the County of Santa Clara are  
6 vicariously liable to Plaintiff for the acts of their employees, agents, and/or  
representatives.

7 WHEREFORE, Plaintiff prays judgment as follows:

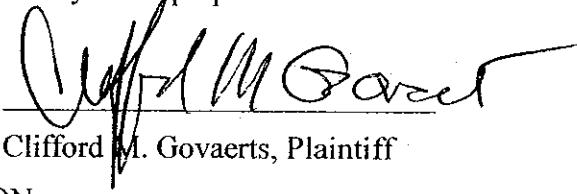
8 **AS TO DEFENDANTS MURPHY AND VARTANIAN,:**

9 1. For general damages according to proof;  
10 2. For medical and related expenses according to proof.  
11 3. For lost earnings, past and future, according to proof;  
12 4. Exemplary and punitive damages  
13 5. For costs of suit herein incurred; and  
14 6. For such other and further relief as the court may deem proper.

15 **AS TO DEFENDANTS THE SANTA CLARA COUNTY DEPARTMENT OF**  
**CHILD SUPPORT, AND THE COUNTY OF SANTA CLARA**

16 1. For general damages according to proof;  
17 2. For medical and related expenses according to proof.  
18 3. For lost earnings, past and future, according to proof;  
19 4. For costs of suit herein incurred;  
20 5. For injunctive relief preventing future violations of this nature, and  
21 6. For such other and further relief as the court may deem proper.

22 Dated: December 4, 2007.

  
23 Clifford M. Govaerts, Plaintiff

24 **VERIFICATION**

25 I, Clifford M. Govaerts, am the plaintiff in this action. I have read the  
26 foregoing First Amended complaint and know the contents thereof. The same is true  
27 of my own knowledge, except as to those matters which are therein stated on  
information and belief, and, as to those matters, I believe it to be true.

28 Dated: December 4, 2007

  
29 Clifford M. Govaerts, Plaintiff

Department of Child Support Services .. . . . .

## **Mission of the Department of Child Support Services**

The mission of the Department of Child Support Services is to promote the well-being of children and the self-sufficiency of families by delivering effective child support services to help meet the financial, medical, and emotional needs of children.

## **Values of the Department of Child Support Services**

The Department of Child Support Services:

- Is dedicated to providing a child support program that puts the security of children above all else, based on the belief that parental responsibility includes financial, medical, and emotional support
- Takes pride in treating everyone served with kindness and compassion
- Treats customers equally and impartially, recognizing their differences with respect and understanding
- Responds to customers with accurate and timely services
- Works collaboratively with customers, other governmental agencies, and partners in an environment of trust and open communication to provide the best possible child support services

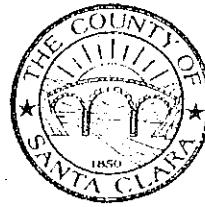
Call toll free 1-866-249-0773 to find your county  
Department of Child Support Services office or  
visit our website at <http://www.childsup.ca.gov>



## County of Santa Clara

### Department of Child Support Services

2685 Junction Avenue  
San Jose, California 95134  
(408) 503-5200 FAX 503-5252



Ralph Miller, Director

February 12, 2007

Clifford Govaerts  
P.O. Box 2294  
Cupertino, California 95015

Re: In re the Marriage of Govaerts  
FSB: 0205857

Dear Mr. Govaerts:

It is my understanding from your attorney that the Department of Child Support Services is permitted to deal with you directly until you inform us that you want us to deal with your attorney.

This letter is in response to your correspondence in which you believe you have over paid child support. I agreed you have over paid the child support that has accrued from June 1, 2006 through January 1, 2007. In May/June of last year, Ms. Grandell asserted that there were child and spousal support arrears estimated in the amount of \$6,894 owed prior to June 1, 2006. (These figures were listed in a Responsive Declaration I filed with the court in June of 2006. A copy was served on your attorney.)

On July 20, 2006, Melody Grandell, your attorney, Tracy Duell-Casez and I were present in Department 94 for a settlement conference. The issues before the court were modification of child and spousal support and determination of arrears. Your attorney was not able to reach you. By stipulation Ms. Grandell, Ms. Duell-Casez and I agreed to take the motion off calendar without prejudice. Any party could ask that the matter be restored.

I just spoke with Ms. Grandell. She has decided not to pursue the prior arrearages at this time. She is aware that this will result in an overpayment of support and you will not need to pay support until the overpayment is cured.

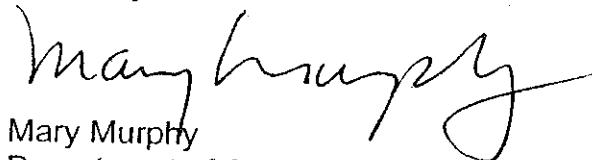
Attached is a Schedule of Payments which shows that you have over paid child support by \$2,062.93 through January, 2007. This means you would not owe support for February, March, and April. For May, you would only need to pay \$161.07. (4 months x \$566 = \$2,224 less \$2,062.93 = \$161.07).

Exhibit B-1

Clifford Govarets  
February 12, 2007  
Page 2

I have already asked the Child Support Officer assigned to your case to adjust your accounts. If you disagree or have questions regarding the above, you can contact me at (408) 503-5502 or fax correspondence to (408) 503-5657.

Sincerely,



Mary Murphy  
Department of Child Support Services

cc: Melody Grandell  
Tracy Duell-Cazes

B-2

## Schedule of Payments

February 12, 2007

FSB 0205857 Govaerts Never Arrears

Page: 1

Simple Interest starting at: 10%

Payments are being applied: first to debt incurred during the current month, then to interest, then to principal.

Prepared using software licensed to Santa Clara County Family Support

Date	Amount due or payment received	Interest rate from this date forward	Interest earned since prior transaction	Total accrued interest	Portion of payment applied to interest	Transaction's effect (+ or -) upon principal balance	Principal balance
Jun 01, 2006	566.00	Amt Due	0	.10	.00	.00	566.00
Jun 01, 2006	-1,134.00	Amt Due	0	.10	.00	.00	-1,134.00
Jul 01, 2006	566.00	Amt Due	30	.10	.00	.00	566.00
Jul 01, 2006	-294.00	Payment	0	.10	.00	.00	-294.00
Aug 01, 2006	566.00	Amt Due	31	.10	.00	.00	566.00
Aug 01, 2006	-101.53	Payment	0	.10	.00	.00	-101.53
Sep 01, 2006	566.00	Amt Due	31	.10	1.43	1.43	566.00
Oct 01, 2006	566.00	Amt Due	30	.10	6.04	7.47	566.00
Oct 01, 2006	-1,721.00	Payment	0	.10	.00	.00	-1,713.53
Nov 01, 2006	566.00	Amt Due	31	.10	.00	.00	566.00
Nov 01, 2006	-2,769.07	Payment	0	.10	.00	.00	-2,769.07
Dec 01, 2006	566.00	Amt Due	30	.10	.00	.00	566.00
Dec 01, 2006	-572.40	Payment	0	.10	.00	.00	-572.40
Jan 01, 2007	566.00	Amt Due	31	.10	.00	.00	566.00
Jan 01, 2007	-6.40	Amt Due	0	.10	.00	.00	-6.40
Feb 01, 2007	.00		31	.10	.00	.00	.00
Total of Payments:				6,598.40			
Total Interest Earned:				7.47		Principal Balance:	-2,062.93
Amount Applied to Interest:				7.47		Unpaid Accrued Interest:	.00
Amount Applied to Principal:				6,590.93		Total Amount Due:	= -2,062.93

B-3



Clifford M. Govaerts  
21795 Olive Ave  
Cupertino, CA 95014  
408-253-1921  
February 20, 2007

Via Registered Mail-Return receipt requested

Santa Clara County  
Department of Child Support Services  
2851 Junction Ave  
San Jose, CA 95134-1910

Attention: Mary Murphy

Case # 1: 0205857 Govaerts id# 730161-Complaint re calculation of accrued support due

Dear Ms. Murphy,

Thank you for your recent, candid letter. I take some comfort in knowing that Melody was not the source of the erroneous bills in your monthly case activity statements. I have attached those statements for April 2006, June 2006 and August 2006, showing arrearage for \$43,667.50, \$45,137, and \$46,755 respectively. Why would you send out these bills knowing that they were erroneous?

In addition, you must have known that even though Melody was seeking \$6,894 in back support, with my pending motion to modify support, which would be given retroactive effect, and my nominal amount of income, it was unlikely that she would collect any portion of the \$6,894.

Clearly the purpose of your bills was to extort and inflict economic and emotional pressure on me. Your statements state the many penalties for nonpayment, e.g. attachment of accounts, including IRA's, blemishes on my credit report, garnishment of wages and tax refunds (and mine was taken) and one year in jail and \$1,000 fines.

Your misuse of power in this matter is unethical, actionable and potentially criminal. If this was not merely a frolic of your own but the policy of your department, it may be time to blow the whistle. In any event, out of professional courtesy, I recommend that you obtain independent legal counsel.

Whatever you may have filed with the court in July of 2006 is fairly irrelevant. I notice your attached August bill was unadjusted. But as you know, the damage was already done before July 2006, with my hospitalization in June 2006. That personal injury, the injury to my children, particularly my son, and the impact this has had on my job search

Exhibit C

and future cannot be compensated for, although I will now seek significant amounts in damages for your outrageous and malicious misconduct.

My COBRA coverage ran out January 1, 2007. If I am unable to secure employment and group benefits by March 1, 2007, it is my understanding that because of pre-existing condition limitations in most if not all plans, and for various, personal reasons, I will be uninsurable for the rest of my career. How will I obtain coverage for my minor child? ~~Wasn't she to be the beneficiary of your efforts? How is destroying her father by your wrongdoings a benefit to her?~~

I will be amending my claims with your office and the Board of supervisors in light of your recent admission. Regarding the former, it has been over 30 days without a response, and if the case must now be moved to the ALJ, assuming I have exhausted my administrative rights, please move it up.

In any event, I strongly request that all matters related to the above-captioned case be removed from your desk and reassigned to someone else.

One last thought, as my ongoing job search is so critical a focus, I would hope the County would agree in writing to a 90 day or longer tolling of all applicable statutes of limitations applicable to my claims. I would further request that all matters surrounding my medical history be kept confidential by all those involved. As a quid pro quo, I will be quite circumspect in sharing the facts of your actions with others.

Best wishes in what may be difficult times,

  
Clifford Govaerts

Cc:Board of supervisors; Gage et al

C-2

PLD-PI-001(6)

SHORT TITLE:

CASE NUMBER:

GROGANES v. SAN JUAN CLARA COUNTY DEPT. OF CHILD SUPPORT

## Exemplary Damages Attachment

Page 11

ATTACHMENT TO  Complaint  Cross - Complaint

EX-1. As additional damages against defendant (name): John G Vartanian III

Plaintiff alleges defendant was guilty of

malice  
 fraud  
 oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

Defendant Mary Murphy, in connection with a child support modification conflict, with full knowledge of the inaccuracy of the information, informed the court that Plaintiff owed \$42,000, principal and interest, in back child support, in clear violation of her duties as a lawyer and arising out of her relationship to Plaintiff. Ms. Murphy knew that Plaintiff's obligation was a small portion of that amount as she had been advised by Defendant Grandell that the amount of child support actually due was less than \$3,000 and acted with reckless abandon and/or willfulness.

Defendant Mary Murphy new or should have known that Plaintiff, as a result of a bitter divorce and the recent loss of his job was suffering from an emotional disability and was collecting California SSI. Defendant Murphy's willful misconduct was wanton, malicious, and oppressive, and justify the awarding of exemplary and punitive damages.

As the proximate result of the acts alleged above, plaintiff suffered humiliation, mental anguish, and emotional and physical distress, and has been injured in mind due to the harassing letters from Defendant Department of Child Support Services which included threats of arrest, attachment, garnishment of tax refunds (which did occur) and that threat to Plaintiff's professional license, all of which caused severe emotional breakdown of Plaintiff and hospitalization, all to Plaintiff's damage.

EX-3. The amount of exemplary damages sought is

a.  not shown, pursuant to Code of Civil Procedure section 425.10.  
 b.  \$

PLD-PI-001(6)

SHORT TITLE:	CASE NUMBER:
<i>GRANDELL v. SAN JUAN CLARA COUNTY DEPT CHILD SUPPORT</i>	

## Exemplary Damages Attachment

Page 10ATTACHMENT TO  Complaint  Cross - Complaint

EX-1. As additional damages against defendant (name):

*Mary Murphy*

Plaintiff alleges defendant was guilty of

malice  
 fraud  
 oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

Defendant Mary Murphy, in connection a child support modification conflict, with full known of the inaccuracy of the information, informed the court that Plaintiff owed \$42,000, principal and interest, in back child support, in clear violation of her duties as a lawyer and arising out of her relationship to Plaintiff. Ms. Murphy knew that Plaintiff's obligation was a small portion of that amount as she had been advised by Defendant Grandell that the amount of child support actually due was less than \$3,000 and acted with reckless abandon and/or willfulness.

Defendant Mary Murphy new or should have known that Plaintiff, as a result of a bitter divorce and the recent loss of his job was suffering from an emotional disability and was collecting California SSI. Defendant Murphy's willfull misconduct was wanton, malicious, and oppressive, and justify the awarding of exemplary and punitive damages.

As the proximate result of the acts alleged above, plaintiff suffered humiliation, mental anguish, and emotional and physical distress, and has been injured in mind due to the harassing letters from Defendant Department of Child Support Services which included threats of arrest, attachment, garnishment of tax refunds (which did occur) and that threat to Plaintiff's professional license, all of which caused severe emotional breakdown of Plaintiff and hospitalization, all to Plaintiff's damage.

EX-3. The amount of exemplary damages sought is

a.  not shown, pursuant to Code of Civil Procedure section 425.10.  
 b.  \$

PLD-PI-001(6)

SHORT TITLE:	CRAEYTS v SANTA CLARA COUNTY DEPT CHILD SUPPORT	CASE NUMBER:
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## Exemplary Damages Attachment

Page 12ATTACHMENT TO  Complaint  Cross - Complaint

EX-1. As additional damages against defendant (name): Santa Clara County Department  
of Child Support Services

Plaintiff alleges defendant was guilty of

- malice
- fraud
- oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

Defendant Mary Murphy, in connection a child support modification conflict, with full known of the inaccuracy of the information, informed the court that Plaintiff owed \$42,000, principal and interest, in back child support, in clear violation of her duties as a lawyer and arising out of her relationship to Plaintiff. Ms. Murphy knew that Plaintiff's obligation was a small portion of that amount as she had been advised by Defendant Grandell that the amount of child support actually due was less than \$3,000 and acted with reckless abandon and/or willfulness.

Defendant Mary Murphy new or should have known that Plaintiff, as a result of a bitter divorce and the recent loss of his job was suffering from an emotional disability and was collecting California SSI. Defendant Murphy's wilfull misconduct was wanton, malicious, and oppressive, and justify the awarding of exemplary and punitive damages.

As the proximate result of the acts alleged above, plaintiff suffered humiliation, mental anguish, and emotional and physical distress, and has been injured in mind due to the harassing letters from Defendant Department of Child Support Services which included threats of arrest, attachment, garnishment of tax refunds (which did occur) and that threat to Plaintiff's professional license, all of which caused severe emotional breakdown of Plaintiff and hospitalization, all to Plaintiff's damage.

EX-3. The amount of exemplary damages sought is

- a.  not shown, pursuant to Code of Civil Procedure section 425.10.
- b.  \$

1  
2  
3 PROOF OF SERVICE  
4

5 Declaration under Code of Civil Procedure § 1094.5  
6

7 I, \_\_\_\_\_, a resident of Santa Clara County, whose business address  
8 is 10338 Scenic Blvd Cupertino, CA 95014 this \_\_\_\_\_, 2007  
9

10 Served the following items:  
11

12 Complaint re Personal Injury, Clifford M. Govaerts vs Santa Clara County  
13 Department of Child Support Services, Summons and Statement of Damages;  
14

15 First Amended Complaint re Personal Injury, Clifford M. Govaerts vs Santa Clara  
16 County Department of Child Support Services, Summons and Statement of Damages;  
17

18 On the following interested parties:  
19

20 Attention Director,  
21 Santa Clara County Department  
22 of Child Support Services  
23 2851 Junction Ave.  
24 San Jose, CA 95134-1910

25 Mary Murphy  
26 Santa Clara County Department  
27 of Child Support Services  
28 2851 Junction Ave.  
San Jose, CA 95134-1910

29 John G. Vartanian III  
30 Santa Clara County Department  
31 of Child Support Services  
32 2851 Junction Ave.  
33 San Jose, CA 95134-1910

34 Peter Kutas, Jr.,  
35 County Executive  
36 70 W. Hedding Road, East Wing  
37 11<sup>th</sup> Floor  
38 San Jose, CA 95110

40 By hand delivery or other Personal service  
41

42 I declare under penalty of perjury under the laws of the State of California that the above is  
43 true and correct.  
44

45 Dated: \_\_\_\_\_  
46

47 Michael Govaerts  
48

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  ANN MILLER RAVEL, County Counsel (S.B. #62139) MARCY L. BERKMAN, Deputy County Counsel (S.B. #151915) OFFICE OF THE COUNTY COUNSEL 70 West Hedding Street, East Wing, Ninth Floor San Jose, California 95110-1770 TELEPHONE NO.: (408) 299-5900 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Defendants, John G. Vartanian, III and Mary Murphy		FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 191 North First Street MAILING ADDRESS: Same CITY AND ZIP CODE: San Jose, California 95113 BRANCH NAME:		
PLAINTIFF/PETITIONER: CLIFFORD M. GOVAERTS		
DEFENDANT/RESPONDENT: SANTA CLARA COUNTY DEPARTMENT OF CHILD SUPPORT SERVICES; MARY MURPHY, ATTY; JOHN G. VARTANIAN, III, COUNTY OF SANTA CLARA; MELODY GRANDELL; AND DOES 1-10.		
NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL		CASE NUMBER: 1 - 07 - CV - 095874

TO (insert name of party being served): JOHN G. VARTANIAN, III and MARY MURPHY

**NOTICE**

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: JANUARY 7, 2008

ALEXANDRA K. WEIGHT

(TYPE OR PRINT NAME)



(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

**ACKNOWLEDGMENT OF RECEIPT**This acknowledges receipt of (**to be completed by sender before mailing**):

1.  A copy of the summons and of the complaint.
2.  Other: (specify):

**EXHIBIT C**

(To be completed by recipient):

Date this form is signed: JANUARY 7, 2008

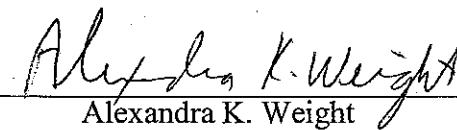
MARCY L. BERKMAN, Deputy County Counsel(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY.  
ON WHOSE BEHALF THIS FORM IS SIGNED)(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF  
ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

1 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

2  
3 **PROOF OF SERVICE BY MAIL**4 *CLIFFORD M. GOVAERTS v. SANTA CLARA COUNTY DEPARTMENT OF CHILD  
5 SUPPORT SERVICES; MARY MURPHY, ATTY; JOHN G. VARTANIAN, III, COUNTY OF  
SANTA CLARA; MELODY GRANDELL; AND DOES 1-10.*

6 Case No. 1-07-CV-095874

7 I, Alexandra K. Weight, say:

8 I am now and at all times herein mentioned have been over the age of eighteen years,  
9 employed in Santa Clara County, California, and not a party to the within action or cause; that  
10 my business address is 70 West Hedding, East Wing, 9<sup>th</sup> Floor, San Jose, California 95110-  
11 1770. I am readily familiar with the County's business practice for collection and processing  
12 of correspondence for mailing with the United States Postal Service. I served a copy of the  
**NOTICE AND ACKNOWLEDGMENT OF RECEIPT-CIVIL** by placing said copy in an  
envelope addressed to:13 Clifford Govaerts, Esq.  
14 P.O. Box 2294  
Cupertino, CA 9501515 which envelope was then sealed, with postage fully prepaid thereon, on **January 7, 2008**,  
16 and placed for collection and mailing at my place of business following ordinary business  
practices. Said correspondence will be deposited with the United States Postal Service at San  
17 Jose, California, on the above-referenced date in the ordinary course of business; there is  
delivery Service by United States mail at the place so addressed.18 I declare under penalty of perjury under the laws of the State of California that the  
19 foregoing is true and correct, and that this declaration was executed on **January 7, 2008**, at San  
Jose, California.20  
21   
22 Alexandra K. Weight23  
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28 108615.wpd

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**PROOF OF SERVICE BY MAIL**

*CLIFFORD M. GOVAERTS v. SANTA CLARA COUNTY DEPARTMENT OF CHILD SUPPORT SERVICES; MARY MURPHY, ATTY; JOHN G. VARTANIAN, III, COUNTY OF SANTA CLARA; MELODY GRANDELL; AND DOES 1-10.*

USDC Case No.

Superior Court Case No. 1-07-CV-095874

I, Alexandra K. Weight, say:

I am now and at all times herein mentioned have been over the age of eighteen years, employed in Santa Clara County, California, and not a party to the within action or cause; that my business address is 70 West Hedding, East Wing, 9<sup>th</sup> Floor, San Jose, California 95110-1770. I am readily familiar with the County's business practice for collection and processing of correspondence for mailing with the United States Postal Service. I served a copy of the **NOTICE OF REMOVAL OF ACTION FEDERAL QUESTION - 28 U.S.C § 1441(b)** by placing said copy in an envelope addressed to:

Clifford Govaerts  
P.O. Box 2294  
Cupertino, CA. 95015

which envelope was then sealed, with postage fully prepaid thereon, on **January 7, 2008**, and placed for collection and mailing at my place of business following ordinary business practices. Said correspondence will be deposited with the United States Postal Service at San Jose, California, on the above-referenced date in the ordinary course of business; there is delivery Service by United States mail at the place so addressed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on **January 7, 2008**, at San Jose, California.

Alexandra K. Weight  
Alexandra K. Weight